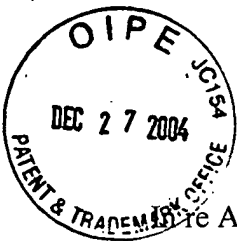


AF/2126



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor/Applicant:

Duane Le Allen

Serial No.: 08/925,703

Filed: September 9, 1997

For: METHOD AND APPARATUS
FOR INSTALLING AN
OPERATING SYSTEM

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Art Unit: 2126

Examiner: George L. Opie Technology Center 2100

Atty Docket: MCT.0126US
(MUEI-0305.00/US)

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APPEAL BRIEF TRANSMITTAL

Dear Sir:

Transmitted herewith is the Appeal Brief in this application. The Notice of Appeal was filed on October 21, 2004.

Pursuant to M.P.E.P. § 1208.02, there is no fee due for this Appeal, because the Examiner reopened prosecution after filing of the first Appeal Brief on October 2, 2001. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504 (MCT.0126US).

Respectfully submitted,

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Date: December 23, 2004

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Janice Munoz



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In re Applicant:

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APPEAL BRIEF

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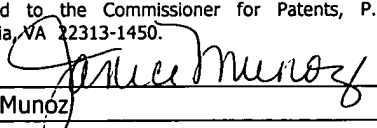

Janice Munoz

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REAL PARTY IN INTEREST

The real party in interest is the assignee Micron Technology, Inc.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 34-42, 44-49 and 51 have been finally rejected under 35 U.S.C. § 103(a) and are the subject of this appeal.

STATUS OF AMENDMENTS

There are no unentered amendments.

SUMMARY OF CLAIMED SUBJECT MATTER

At this point, no issue has been raised that would suggest that the words in the claims have any meaning other than their ordinary meanings. Nothing in this section should be taken as an indication that any claim term has a meaning other than its ordinary meaning.

The method of independent claim 34 includes providing an operating system package that includes a first configuration file. The operating system package includes a standalone package to run a computer system without requiring additional software, and the first configuration file includes information that is used by the operating system package to install a first driver for a first device on a computer. As examples, the first, second and third embodiments that are described in the specification set forth various embodiments of operating systems. In particular, an operating system package that includes a configuration file is described in connection with the first described embodiment in line 14 on page 9 through line 17 on page 10 of the specification. Specification, pp. 9-10.

The method of independent claim 34 also includes providing a second configuration file that is external to the operating system package. The second configuration file includes information to direct the installation of a second driver for a second device. The first embodiment that is described in the specification describes an external configuration file, as compared to an internal configuration file in lines 8-16 on page 10. Specification, p. 10.

The method of independent claim 34 includes installing the second driver on the computer based on the information in the second configuration file. An example of this configuration appears in lines 3-14 on page 11 of the specification. Specification, p. 11.

The method of independent claim 34 recites installing the operating system package on the computer based on the information in the second configuration file. This installation is described, in an example, in lines 3-14 on page 11 of the specification. Specification, p. 11.

The method of independent claim 34 also recites patching errors in the first configuration file with information in the second configuration file. An example of the patching set forth in claim 34 is described in lines 5-11 on page 11 of the specification. Specification, p. 11.

Independent claim 44 recites an article that includes at least one computer readable storage medium that stores instructions to cause a computer to generate an external configuration file that is external to an operating system package. The operating system package includes a

standalone package to run a computer system without requiring additional software, and the external configuration file includes information to direct the installation of a driver for a particular device. The operating system package includes an internal configuration file that is used by the operating system package to install at least one other driver for at least one other device on the computer. An example of these instructions is set forth in the specification in line 14 of page 9 through line 17 of page 10. Specification, pp. 9-10.

The storage medium stores instructions to cause the computer to install the driver for the particular device of the computer based on the information in the external configuration file. Examples of these instructions are set forth in lines 3-14 on page 11 of the specification. Specification, p. 11.

The storage medium also stores instructions to cause the computer to install the operating system package on the computer based on the information in the external configuration file. An example of such instructions is set forth in the specification in lines 3-14 on page 11. Specification, p. 11.

Additionally, the storage medium stores instructions to cause a computer to patch errors in the internal configuration file with information in the external configuration file. Examples of these instructions are set forth in the specification at least in lines 5-11 on page 11 of the specification. Specification, p. 11.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- A. Rejections of Claims 34-42, 44-49 and 51 under 35 U.S.C. § 103(a).**

ARGUMENT

A. Rejections of Claims 34-42, 44-49 and 51 under 35 U.S.C. § 103(a).

The method of independent claim 34 includes providing an operating system package that includes a first configuration file. The operating system package includes a standalone package to run a computer system without requiring additional software, and the first configuration file includes information that is used by the operating system package to install a first driver for a first device on a computer. The method of independent claim 34 includes providing a second configuration file that is external to the operating system package. The second configuration file includes information to direct the installation of a second driver for a second device. The method of independent claim 34 includes installing the second driver on the computer based on the information in the second configuration file; and the method of independent claim 34 recites installing the operating system package on the computer based on the information in the second configuration file. Additionally, the method of independent claim 34 recites patching errors in the first configuration file with information in the second configuration file.

The Examiner rejects independent claim 34 under 35 U.S.C. § 103(a) as being unpatentable over alleged Admitted Prior Art (herein called "APA") in view of U.S. Patent No. 5,640,562 (herein called "Wold") and an article entitled, "Microsoft Releases Windows 95 Service Pack M2 Communication Presswire, 14 February 1996" (herein referred to as the "Microsoft document"). The Examiner uses the Background section of the present application as the APA. Wold generally describes hardware support code on top of an existing operating system. The Microsoft document generally describes various corrections that were made to Windows 95 components, including corrections to file and printer sharing devices.

A *prima facie* case of obviousness has not been established for independent claim 34 for at least the reason that the hypothetical combination of the APA, Wold and the Microsoft document fails to teach or suggest patching errors in a first configuration file (that is part of an operating system package) with information in a second configuration file (a file that is external to the operating system package).

In the Office Action mailed on January 15, 2004 (herein called the "Office Action"), the Examiner contended that, "patching of errors in a first configuration file with information in a second configuration file is well known in the art." Office Action, 5. Thus, initially, the Examiner combined the APA in view of Wold and contended that the patching of errors, as recited in claim 34, was well known in the art. Applicant challenged the assertion in the subsequent reply, and as a result, the Examiner added Wold in the § 103 combination of references in the Final Office Action mailed on July 21, 2004 (herein called the "Final Office Action").

Neither Wold nor the APA teaches or suggests the patching that is recited in independent claim 34. To allegedly show a teaching or suggestion of the patching, the Examiner relies on Microsoft document in the Final Office Action. More specifically, in the Final Office Action, the Examiner contends that the Microsoft document satisfies the Examiner's requirement to support the Official Notice. Final Office Action, 8. Although Applicant submits that the Examiner has conceded the Official Notice due to the inclusion of the Microsoft document into the § 103 rejections, the Microsoft document neither supplies the missing claim limitations nor supports the Examiner's requirement to support the Official Notice for at least two reasons. First, the Microsoft document fails to show where the prior art contains the missing claim limitations, i.e., the patching of errors in a first configuration file (that is part of an operating system package

that includes a stand-alone package to run a computer system without requiring additional software) with information in a second configuration file (that is external to the operating system package). More specifically, the Microsoft document merely refers to, "fixes that were made to Windows 95 components, including new file and printer sharing devices and enhanced password-list security." However, there is no teaching or suggestion in the Microsoft document regarding a configuration file that is external to an operating system package that includes information from which errors may be patched in a second configuration file. Therefore, for at least this reason, the Examiner fails to establish a *prima facie* case of obviousness for independent claim 34.

The Examiner contends that the terminology used by the Applicant has a "broad meaning in the art." However, claim 34 contains extensive language that defines what is meant by the "first configuration file" and "second configuration file." Thus, when the expressly recited limitations of claim 34 are assigned the patentable weight that they are due, it becomes clear that the hypothetical combination of the APA, Wold and the Microsoft document fails to teach or suggest all of the limitations of claim 34. Therefore, for at least this reason, a *prima facie* case of obviousness has not been established for claim 34.

Neither Wold nor the APA provide the alleged suggestion or motivation to modify Wold in view of the Microsoft document to derive the missing claim limitations. Furthermore, the Microsoft document also fails to satisfy the existence of the alleged suggestion or motivation in the art to modify Wold's ly2install script file 135 (i.e., the alleged first configuration file) in view of the Microsoft document to derive the missing claim limitations. In other words, the Examiner has not shown where the prior art contains the suggestion or motivation to modify Wold so that its script file 135 contains information to patch an internal configuration file (that directs driver

installation) of an operating system package. Without such a showing, a *prima facie* case of obviousness has not been established for claim 34 for at least this additional, independent reason.

Thus, the § 103(a) rejection of independent claim 34 is improper and should be reversed.

The article of independent claim 44 includes at least one computer readable storage medium that stores instructions to cause a computer to generate an external configuration file that is external to an operating system package. The operating system package includes a standalone package to run a computer system without requiring additional software, and the external configuration file includes information to direct the installation of a driver for a particular device. The operating system package includes an internal configuration file that is used by the operating system package to install at least one other driver for at least one other device on the computer. The storage medium also stores instructions to cause the computer to install the driver for the particular device of the computer based on the information in the external configuration file, and the storage medium stores instructions to cause the computer to install the operating system package on the computer based on the information in the external configuration file. Additionally, the storage medium stores instructions to cause the computer to patch errors in the internal configuration file with information in the external configuration file.

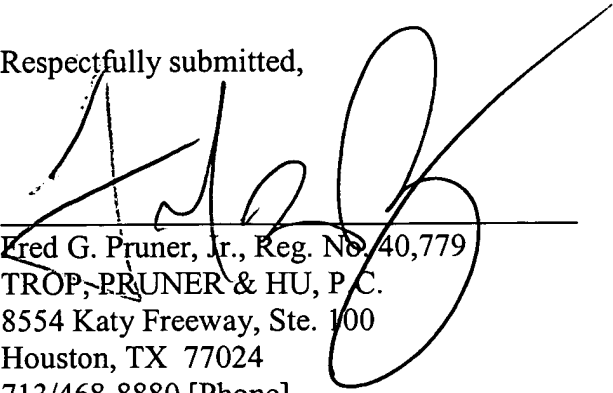
The Examiner rejects independent claim 44 under 35 U.S.C. § 103(a) as being unpatentable over the alleged APA in view of Wold and the Microsoft document. However, neither Wold, the Microsoft document nor the APA teaches or suggests instructions to cause a computer to patch errors in an internal configuration file (of an operating system package) with information in an external configuration file (to the operating system package). See discussion of independent claim 34 above.

Thus, for at least the reasons that are set forth above, the § 103(a) rejections of claims 34-42, 44-49 and 51 are improper and should be reversed.

Applicant respectfully requests that each of the final rejections be reversed and that the claims subject to this Appeal be allowed to issue.

Respectfully submitted,

Date: December 23, 2004



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CLAIMS APPENDIX

The claims on appeal are:

34. A method comprising:

providing an operating system package that includes a first configuration file, the operating system package comprising a standalone package to run a computer system without requiring additional software and the first configuration file including information used by the operating system package to install a first driver for a first device on a computer;

providing a second configuration file external to the operating system package, the second configuration file including information to direct the installation of a second driver for a second device;

installing the second driver on the computer based on the information in the second configuration file;

installing the operating system package on the computer based on the information in the second configuration file; and

patching errors in the first configuration file with information in the second configuration file.

35. The method of claim 34, further comprising:

executing a setup program of the operating system package to install the second driver.

36. The method of claim 34, wherein the second device is not the same as the first device.

37. The method of claim 34, further comprising installing applications after the second driver and the operating system are installed.

38. The method of claim 34, further comprising determining one installation procedure from among a plurality of options.

39. The method of claim 34, wherein the second device is identified dynamically.

40. The method of claim 39, wherein the dynamic identification comprises at least one of an automated identification and a user-driven identification.

41. The method of claim 34, wherein the second device comprises at least one of an ISA, PCI, SCSI, and an IDE device.

42. The method of claim 34, wherein the second device comprises at least one of a display device, a sound device, a modem, and a controller.

44. An article comprising at least one computer readable storage medium storing instructions to cause a computer to:

generate an external configuration file that is external to an operating system package, the operating system package comprising a standalone package to run a computer system without requiring additional software and the external configuration file including information to direct the installation of a driver for a particular device and the operating system package including an internal configuration file used by the operating system package to install at least one other driver for at least one other device on the computer;

install the driver for the particular device of the computer based on the information in the external configuration file;

install the operating system package on the computer based on the information in the external configuration file; and

patch. Errors in the internal configuration file with information in the external configuration file.

45. The article of claim 44, wherein said at least one storage medium stores instructions to cause the computer to install applications after the particular driver and the operating system package are installed.

46. The article of claim 44, wherein said at least one storage medium stores instructions to cause the computer to determine one installation procedure from among a plurality of options.

47. The article of claim 44, wherein said at least one storage medium stores instructions to cause the computer to dynamically identify the particular device.

48. The article of claim 44, wherein the particular device comprises at least one of an ISA, PCI, SCSI, and an IDE device.

49. The article of claim 44, wherein the particular device comprises at least one of a display device, a sound device, a modem, and a controller.

51. The article of claim 44, wherein said at least one storage medium stores instructions to cause the computer to install the driver for the second device and the operating system package contemporaneously.